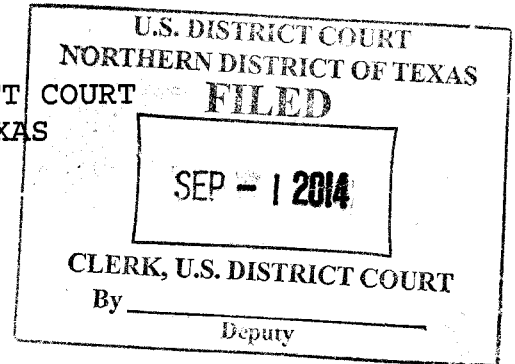


IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION



LISA A. BIRON,

Petitioner,

VS.

JODY UPTON, WARDEN,

Respondent.

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NO. 4:14-CV-627-A

ORDER

Came on for consideration the motion to vacate order and reconsider dismissal of § 2241 petition, filed in the above action by petitioner, Lisa A. Biron. Having considered such motion, the court concludes that it should be denied.

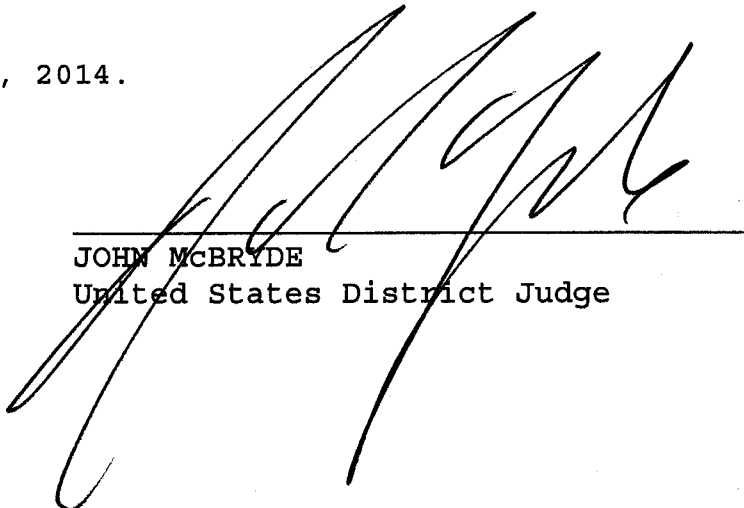
The court dismissed petitioner's § 2241 motion on the grounds that she admitted in the petition her failure to exhaust administrative remedies. In the instant motion to vacate, petitioner describes in detail her attempts to exhaust administrative remedies at the Bureau of Prisons's facility in Danbury, Connecticut, where petitioner was incarcerated until her transfer to FMC-Carswell in April 2014. However, the § 2241 petition filed in the above action challenges disciplinary action imposed by FMC-Carswell staff. No mention is made in the motion to vacate of any attempt by petitioner to exhaust administrative remedies as to that action.

Further, the Bureau of Prisons's Administrative Remedy Program contemplates that a prisoner will attempt to resolve grievances at the facility where the petitioner is incarcerated, first informally through staff at the facility, then through the warden, and the regional director. Local staff at FMC-Carswell, the warden of that facility, and likely the regional director, are not the same individuals who considered petitioner's grievances while she was incarcerated in Connecticut. Accordingly, petitioner has failed to show that she has exhausted her administrative remedies as to the issues raised in her petition filed August 6, 2014, nor has she shown that attempts to do so would be futile.

Therefore,

The court ORDERS that the motion to vacate be, and is hereby, denied.

SIGNED September 1, 2014.



JOHN MCBRYDE
United States District Judge